

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

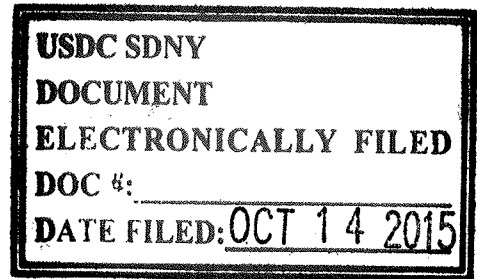
John Olagues & Ray Wollney,

Plaintiff,

—v—

Perceptive Advisers LLC *et al.*,

Defendant.



15-cv-1190 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On October 13, 2015, Defendants filed a motion to dismiss the complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. However, since Plaintiffs are proceeding *pro se*, they shall be given additional time to amend the complaint. Accordingly, it is hereby ORDERED that if Plaintiffs intend to file an amended complaint, they shall do so by November 10, 2015. Plaintiffs are hereby advised that any amended complaint will completely replace the original complaint. Accordingly, if Plaintiffs file an amended complaint, it should include all of the information they believe is necessary to make a short, plain statement explaining why they are entitled to relief against each defendant. Plaintiffs are on notice that declining to amend their pleadings to timely respond to a fully briefed argument in the Defendants' October 13, 2015, motion to dismiss may well constitute a waiver of the Plaintiffs' right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC*, No. 13-1476-CV, 2015 WL 4492258, at *25 (2d Cir. July 24, 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility.").

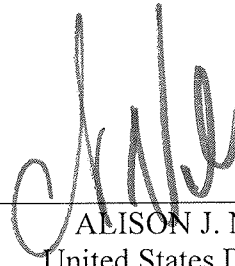
IT IS FURTHER ORDERED that if no amended complaint is filed, briefing shall be conducted as per the schedule set by Judge Netburn. Plaintiffs shall serve their opposition to Defendants' motion to dismiss by November 16, 2015, Defendants' reply, if any, shall be served

by December 22, 2015. At the time any reply is served, Defendants shall supply Chambers with a courtesy copy of all motion papers by mailing or delivering them to the United States Courthouse, 40 Foley Square, New York, New York.

IT IS FURTHER ORDERED that either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

SO ORDERED.

Dated: October 14, 2015
New York, New York

A handwritten signature in dark ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN
United States District Judge